

UNITED STATES OF AMERICA, ) 2:12-cr-00253-HDM-VCF  
) 2:16-cv-01373-HDM  
Plaintiff, )  
)  
vs. )  
) ORDER  
FERMIN MESA, )  
)  
Defendant. )  
)

The standard for issuance of a certificate of appealability calls for a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c). The Supreme Court has interpreted 28 U.S.C. § 2253(c) as follows: "Where a district court has rejected the constitutional claims on the merits, the showing required to

1 satisfy § 2253(c) is straightforward: The defendant must  
2 demonstrate that reasonable jurists would find the district court's  
3 assessment of the constitutional claims debatable or wrong." *Slack*  
4 *v. McDaniel*, 529 U.S. 473, 484 (2000); see also *James v. Giles*, 221  
5 F.3d 1074, 1077-79 (9th Cir. 2000). The Supreme Court further  
6 illuminated the standard for issuance of a certificate of  
7 appealability in *Miller-El v. Cockrell*, 537 U.S. 322 (2003). The  
8 Court stated in that case:

9 We do not require petitioner to prove, before the  
10 issuance of a COA, that some jurists would grant the  
11 petition for habeas corpus. Indeed, a claim can be  
12 debatable even though every jurist of reason might  
13 agree, after the COA has been granted and the case  
14 has received full consideration, that petitioner  
15 will not prevail. As we stated in *Slack*, "[w]here a  
16 district court has rejected the constitutional  
17 claims on the merits, the showing required to  
18 satisfy § 2253(c) is straightforward: The petitioner  
19 must demonstrate that reasonable jurists would find  
20 the district court's assessment of the  
21 constitutional claims debatable or wrong."

22 *Miller-El*, 123 S.Ct. at 1040 (quoting *Slack*, 529 U.S. at 484).

23 The court has considered the issues raised by defendant, with  
24 respect to whether they satisfy the standard for issuance of a  
25 certificate of appeal, and determines that none meet that standard.  
26 The court therefore denies a certificate of appealability with  
27 respect to any appeal of the court's denial of defendant's 28  
28 U.S.C. § 2255 motion.

IT IS SO ORDERED.

DATED: This 6th day of January, 2017.



UNITED STATES DISTRICT JUDGE